

Appl. No. 09/832,464

Amdt. dated: November 4, 2004

Reply to Final Office Action of June 16, 2004 and Advisory Action of October 7, 2004

REMARKS

Claims 1-31 are in the application. Claims 1-2, 6, 8-11, 13-16, 18-20, 22-27, and 30-31 are allowed. Claims 7, 12, 17, 28, and 29 are rejected, and claims 3-5 and 21 are objected to. By the present amendment, claims 2, 3, 4, 5, 21, and 28 are amended. The amendments add no new matter. In view of the amendments and following remarks, reconsideration of claims 1-31 is respectfully requested.

Surrender of Patent

Applicants have been unable to find the original patent. A statement as to the loss of or inaccessibility to the original patent is attached hereto. Applicants submit that this document satisfies the requirement regarding the surrender of the original patent.

Claim Amendments

Applicants have re-characterized claim 7 to reflect that this claim was previously amended by a preliminary amendment at the time the reissue application was filed.

§ 112 Rejections

Claim 7 is rejected under 35 USC § 112, as being definite, for reciting the term "mol". Claims 12, 17, and 29 were also rejected as being indefinite for depending from an indefinite claim. In accordance with the Examiner's suggestion, claim 7 was previously amended by a preliminary amendment filed concurrently with the present reissue application to replace the term "mol" with the term "molecule". Applicants submit that this previous amendment, which is now correctly reflected in the Listing of Claims, obviates the rejection.

Claim 28 remains rejected under 35 USC § 112, first paragraph, "as failing to comply the written description requirement". Applicants have amended claim 28 for clarity to recite a DNA molecule of claim 1, comprising a nucleotide sequence having a region which consists of nucleotides 749 to 931 of SEQ ID NO. 1. Applicants submit that the amendment overcomes the rejection.

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Claim Objections

Claims 3-5 and 21 are objected to for reciting "Sequence Identifier No.", rather than "SEQ ID NO." Applicants have amended claims 3-5 and 21, as well as claim 2, to correct the format. Applicants submit that the amendments overcome the objection

Oath/Declaration

As requested by the Patent Office, Applicants are submitting herewith a Supplemental Declaration for Reissue Patent Application To Correct "Errors" Statement signed by David H. Gorski, the first named inventor on the present reissue application, and a Supplemental Declaration for Reissue Patent Application To Correct "Errors" Statement signed by Kenneth Walsh, the second named inventor on the present reissue application. Applicants submit that these declarations satisfy the requirement under 37 CFR 1.175.

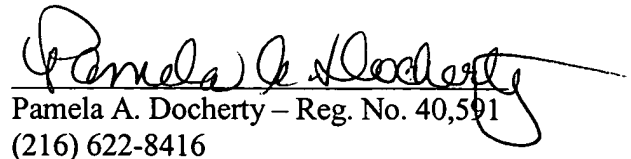
In view of the amendments and remarks, Applicants submit that claims 1-31 are now in condition for allowance. Prompt notification of such allowance is respectfully requested. If the Examiner feels that further changes to the application are necessary or if she has any questions regarding the amendments or documents that will be provided to the Patent Office, she is invited to contact the undersigned at the telephone number listed below.

Applicants also request that any further communications regarding this application be sent to the attention of the undersigned at the address associated with Customer number 24024.

Respectfully submitted,

Date:

November 4, 2004


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